

SIEMENS

PATENT
Attorney Docket No. 2003P14790WOUS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Inventor:	S. Haaks et al.)	Group Art Unit:	2857
Serial No.:	10/573,674)	Examiner:	Desta, Elias
Filed:	10/25/2006)	Confirmation No.	5072

Title: Method and Device for Determining the Causes of Malfunctions and Performance Limits in Installations

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S REPLY BRIEF

Sir:

Pursuant to 37 C.F.R. § 41.41, this Reply Brief is responsive to the Examiner's Answer mailed 10 July 2008 in which the Examiner raised new points of argument. This is not a substitute for the Appeal Brief. Any ground for rejection in Examiner's Answer that is not refuted herein is considered by Appellant to have been sufficiently argued in the Appeal Brief, such that no further comment is needed herein. Arguments herein focus on errors and new arguments presented in the Examiner's answer.

The Examiner's substantive response to Appellants' argument, beginning on page 7 of the Answer Brief, is an attempt to rebut the plain fact that the Okazaki reference fails to disclose at least the following two features of claim 19:

"gathering and storing in a first database relevant causation data of performance limits for a plurality of related installations ..."

and

"generating a questionnaire from the causation data by *tailoring the questionnaire* based on data in the second database so that the questionnaire only contains questions relating to the installation under investigation"

With regard to the "gathering and storing ..." element, the Examiner now argues that Fig. 7 of Okazaki fully discloses this step, but this cannot be so because, as explained at Col. 1, lines 24-32, Fig. 7 is a conventional plant diagnosis system wherein a plant user's unit is equipped with a diagnosis computer and a plurality of terminals, e.g., for a steam plant. The citation does not relate to a **plurality** of related installations but, rather, to one steam plant. The Examiner's draws an incorrect conclusion at page 8 of the Answer Brief, stating that "Therefore, Okazaki discloses a database ... for a **plurality** of installations." Emphasis Added. There is no basis in logic or fact for such a conclusion.

With respect to the "tailoring the questionnaire ..." feature of claim 19, the Examiner ignores the fact that the questionnaire is generated from causation data which has been assimilated from the plurality of related installations as set forth in the method step of "gathering and storing ..." The Examiner's argument ignores this connection and therefore incorrectly concludes that the step of "tailoring the questionnaire ..." is met by Okazaki simply because Okazaki develops a questionnaire specific to **one** plant. This is not the same as the questionnaire defined in claim 19. Appellants' questionnaire:

(1) draws from the causation data assimilated for a plurality of plants; and

(2) is tailored to contain questions relating to the installation under investigation. In contrast, the questionnaire of Okazaki is not based on "causation data ... for a plurality of related installations ..."

The foregoing differences confirm that the Okazaki reference cannot anticipate claim 19. Other errors have also been introduced into the record. For example, at page 8 of the Answer Brief the Examiner alludes to Okazaki as having disclosed two or more diagnostic computer subsystems and a second database to store the questionnaire specific to the installation under investigation. First, it is not seen that the reference discloses more than one such

diagnostic computer subsystem (unit 13). Second, even if the reference were to disclose a second separate database to store the questionnaire for the plant (and the Examiner has not cited any support for such), this does not meet the terms of claim 19 which further requires that

"the first database relevant causation data of performance limits for a plurality of related installations"

and

the second database stores "data relating to the installation under investigation"

Lastly with respect to claim 19, the Examiner implies that Appellants are urging limitations be read into the claims when such limitations are only found in the specification; and that during re-examination claims are given their broadest reasonable interpretation. Appellants have only argued the features of the claims, and the Examiner continues to fabricate argument in order to "read" into the Okazaki reference the very features which Appellants have already shown to be missing.

The Examiner's Answer also provides new argument regarding the device of claim 32.

In arguing anticipation of

"a first database that contains data about causes of malfunctions in a plurality of installations and improvement measure data"

the Examiner again cites Fig. 7 of Okazaki and fails to cite support for the requirement of claim 32 that the database includes improvement measurement data. Citation was again made to col. 5, line 62 - col. 6, line 6, even though the passage clearly lacks all that is required. At page 9 of the Answer Brief the Examiner further argues presence of the claimed

data processing unit to generate the questionnaire from the data in the first database and the second database and to determine the causes of disruptive factors of the installation under investigation by analyzing the responses of the employees to the questions in the questionnaire

but the first and second databases of claim 32 are not provided in the reference. The Examiner appears to argue that, merely because Okazaki creates a questionnaire, all of the features in

dispute must be found in the prior art. They are not there and the Examiner continues to gloss over the deficiencies by repeatedly "stating" they are present.

Although the Examiner has drafted a set of arguments under the heading "Response to Argument" none of the argument presented is supportable to reject the claims based on the Okazaki reference. Another example is the Examiner's new argument with regard to dependent claim 21, which states that both the Okazaki reference and the Appellants' use the same approach in generating a questionnaire. See page 9 of the Answer Brief. The Examiner fails to address the express recitation of claim 21 for

generating the questionnaire by a data processing unit that uses data in the first and second databases

and the Examiner provides no citation in Okazaki to support the contention that such a similarity might exist. As another example, the Examiner's Answer Brief (at page 10) references the causation data of claim 23 as though this is disclosed by the Okazaki reference when, according to claim 19 from which claim 23 depends, that very same causation data is from a plurality of related installations. Therefore claim 23 cannot be read upon the prior art. Numerous other unsupportable contentions were made with regard to other dependent claims as though no differences exist. The rejection must fail and all of the claims should be passed to issuance.

Conclusion

In summary, the argument presented in the Examiner's Answer fails to identify the requisite support to sustain any prior art rejection. The new arguments are without support just as the arguments presented in the final rejection are without basis. In view of the several deficiencies identified in the Answer brief, Applicant Appellants again respectfully submit that the rejections are in error. The Board is therefore respectfully requested to reverse the final rejection of the Examiner and to remand the application to the Examiner with instructions to allow all of the pending claims.

Please grant any extensions of time required to enter this paper. Please charge any appropriate fees due in connection with this paper or credit any overpayments to Deposit Acct. No. 19-2179.

Respectfully submitted,

Dated: 9/11/03

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